

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

**The written comment deadline is October 24, 2007, unless otherwise listed.
(Temp & Prop) indicates the rule is both temporary and proposed.
** Indicates that a public hearing has been scheduled.**

IDAPA 17 - INDUSTRIAL COMMISSION PO Box 83720, Boise, ID 83720-0041

****17-0208-0702, *Miscellaneous Provisions***. Establishes a medical fee schedule and reimbursement methodology pursuant to Worker's Compensation law for providers, sureties, and employers while maintaining budget neutrality.

IDAPA 18 - DEPARTMENT OF INSURANCE PO Box 83720, Boise, ID 83720-0044

18-0144-0701, *Schedule of Fees, Licenses and Miscellaneous Charges*. Eliminates discounted fee and returns to the uniform renewal rate of \$80 for adjusters, producers and surplus lines brokers.

18-0150-0701, *Adoption of the 2003 International Fire Code*. (Temp & Prop) Incorporates by reference the 2006 International fire Code.

18-0153-0701, *Continuing Education*. Updates procedures to allow licensee to download continuing education (CE) courses and course completion rosters via the Internet so that they are credited prior to the license renewal date; eliminates exemptions to CE and added credits because of a reduction in the CE credit hour requirements from forty to twenty four to meet national uniformity standards.

18-0160-0701, *Long-Term Care Insurance Minimum Standards*. Clarifies training requirements for insurance producers selling long term care insurance policies that qualify for Idaho's Long Term Care Insurance Partnership Program.

IDAPA 19 - STATE BOARD OF DENTISTRY 350 North 9th Street, Suite M100, Boise, ID 83702

19-0101-0701, *Rules of the State Board of Dentistry*. Increases licensure application fees for dentists and dental hygienists and the biennial license fees.

IDAPA 20 - DEPARTMENT OF LANDS 954 W Jefferson St. Boise, ID 83720-0050

20-0206-0701, *Administration of Idaho's Reforestation Law*. Repeal of chapter.

20-0212-0701, *Rules of the Community and Urban Forestry Trust Account*. Repeal of chapter.

20-0304-0701, *Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*. Increases permit fees; clarifies definitions of commercial and community marinas; allows commercial marinas to have up to 50% private moorage under certain conditions; amends certain hearing processes, specifies

floathome standards; authorizes temporary permits; and simplifies enforcement actions.

20.03.17, Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands. Allows commercial marinas to have some private moorage without permanently encumbering public trust lands and with sufficient protections for the parties involved; specifies what types of rental rates should be used; adds yearly reporting requirements to help determine current market rental rates and to ensure lessees are maintaining proper insurance coverage; provides enforcement remedies and lease cancellations.

IDAPA 22 - BOARD OF MEDICINE
PO Box 83720, Boise, ID 83720-0058

22-0101-0701, Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho. Amends existing language relating to the graduates of U.S., Canadian and international medical schools; clarifies post-graduate medical training requirements; augments international medical school requirements; includes definitions; requires lawful presence in the U.S.; broadens fee schedules.

22-0102-0701, Rules of the Board of Medicine for the Registration of Externs, Interns, and Residents. Amends registration requirements for students and graduates of medical schools in the U.S., Canada and international medical students and graduates; clarifies medical education requirements; includes definitions; broaden fee schedule.

22-0111-0701, Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho. Amends renewal requirements of current CRT certification, current RRT registration or current registration as a polysomnographic technologist; requires English language proficiency; requires lawful presence in the U.S.; broadens fee schedules.

IDAPA 23 - BOARD OF NURSING
PO Box 83720, Boise, ID 83720-0061

23-0101-0702, Rules of the Idaho Board of Nursing. (Temp & Prop) Clarifies that nurses violating the terms of the program for recovering nurses will have their limited licenses summarily suspended, but, when appropriate, a nurse can remain in the program without being referred to the Board for disciplinary proceedings.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
1109 Main St., Ste 220, Boise, ID 83702

24-0301-0702, Rules of the State Board of Chiropractic Physicians. Adds scope of practice; clarifies endorsement requirements to consider various timeframes for licensure in another state; increases continuing education requirement to 18 hours effective January 2009 and allows 6 hours of CE through distance learning and home study.

24-0401-0701, Rules of the Idaho Board of Cosmetology. Allows degree equivalency in lieu of high school education; defines examination; change references to the exam to allow for a third party examination administrator; deletes deadline date for filing application; changes exam model requirements and eligibility for reexamination; corrects limitation on clinical services from hour requirement to percentage to comply with statute.

24-0501-0701, Rules of the Board of Drinking Water and Wastewater Professionals. Defines direct supervision and experience; allows consideration of a backflow examination; clarifies education and experience requirements and reinstatement of license; adds provision for continuing education courses approved by specific states; and changes operator-in-training from permit to license.

24-0701-0701, Rules of the Idaho State Board of Landscape Architects. Updates incorporation by reference and Board address; adds an application fee; clarifies the supervision and limitations on the landscape architect-in-training.

24-0801-0701, Rules of the State Board of Morticians. Corrects exam requirements for funeral director; combines funeral and crematory establishment requirements; adds provisions for display of caskets and merchandise to include video, catalogs and electronic depiction.

24-0901-0701, Rules of the Board of Examiners of Nursing Home Administrators. Waives continuing education requirements for first license renewal; clarifies the setting for trainees in the administrators-in-training program.

24-1101-0701, Rules of the State Board of Podiatry. Allows for consideration of the national board exam and the

acceptable passing grade; establishes a deadline for pending applications; revises continuing education courses that the board will accept.

24-1401-0701, Rules of the State Board of Social Work Examiners. Clarifies supervision of social workers in state and out of state and supervisor registration requirements; updates exam titles and terminology in public policy and code of professional conduct.

24-1501-0701, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. Clarifies qualifications for professional counselor license; updates titles of accrediting bodies; clarifies supervision requirements for marriage and family therapists and that interns must be registered prior to commencement of supervised experience; adds license renewal fees for newly created inactive and senior status; clarifies continuing education endorsement and continuing education exemption for inactive status.

24-1601-0701, Rules of the State Board of Dentistry. Limits the length of an internship and creates a standard for advertisements to ensure public safety.

24-1701-0701, Rules of the Idaho State Board of Acupuncture. Defines accredited college or university and clarifies requirements for certification per statutory change.

24-1801-0701, Rules of the Real Estate Appraiser Board. (Temp & Prop) Allows applicants currently working on licensure time to come into compliance with the new federal standards; clarifies continuing education requirements.

24-2201-0701, Rules of the Idaho State Liquefied Petroleum Gas Safety Board. Incorporates by reference the 2004 Edition of NFPA 58; adds applicant requirement for certification of general liability insurance; creates a section for general liability insurance requirements per statute; clarifies inspection rules.

24-2301-0701, Rules Governing the Idaho Board of Speech and Hearing Services. Clarifies qualifications for Audiologists, Speech-Language Pathologists, Speech-Language Pathologist Aides, Speech-Language Pathologist Assistants, and Hearing Aid Dealer and Fitters; clarifies personal contact by supervisors for provisional permit holders.

****24-2401-0701, Rules of the Board of Naturopathic Medical Examiners.** New chapter provides for an application process and fee schedule; allows for renewal of registrations; sets standards for continuing education; defines scope of practice and approved schools and examinations; provides contact information and definitions.

IDAPA 26 - DEPARTMENT OF PARKS AND RECREATION
PO Box 83720, Boise, ID 83720-0065

26-0120-0701, Rules Governing the Administration of Park and Recreation Areas and Facilities. Defines capacity of a campsite to include 1 vehicle or RV, or 2 motorcycles, and up to 2 tents; establishes guidance for park staff to appropriately manage increased park use for non-traditional recreational activities.

26-0130-0701, Idaho Safe Boating Rules. Addresses unsafe seating while the vessel is underway, and the unsafe operation of a vessel in close proximity to a person in the water.

IDAPA 27 - BOARD OF PHARMACY
PO Box 83720, Boise, ID 83720-0067

27.01.01, Rules of the Idaho State Board of Pharmacy

27-0101-0703, (Temp & Prop) Implements the licensing, bonding, and drug pedigree requirements of the Idaho Wholesale Drug Distribution Act, a comprehensive revision of the former wholesale drug distribution laws.

27-0101-0705, Establishes procedures for registration for database access for assignment of user accounts, log-in names, and passwords; for confidentiality; for discipline for the unauthorized disclosure or sharing of account information; and for information reports by non-practitioners.

IDAPA 28 - DEPARTMENT OF COMMERCE
PO Box 83720, Boise, ID 83720-0094

28-0203-0701, Rules of the Idaho Regional Travel and Convention Grant Program. Updates language and concepts that related to previous changes and advances in technology. It is also necessary to update outdated language

and to bring consistency between rules.

IDAPA 29 - IDAHO POTATO COMMISSION

PO Box 1670, Eagle, ID 83616

29-0101-0701, Rules of Procedure of the Idaho Potato Commission. (Temp & Prop) Updates commission location and contact information.

29-0102-0701, Rules Governing Payment of Tax and Usage of Certification Marks and Trademarks. (Temp & Prop) Clarifies IPC tax calculation and reporting method; modernizes packaging rules; and makes trademarks available for marketing purposes.

IDAPA 31 - PUBLIC UTILITIES COMMISSION

PO Box 83720, Boise, ID 83720-0074

31-1201-0701, Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission. Updates the Code of Federal Regulations incorporation by reference.

31-2101-0701, The Utility Customer Relations Rules. Clarifies that customers and applicants may pay service deposits in 2 equal installments; customer refunds will be credited to future bills unless the customer requests a refund; limits the time period a utility may rebill an undercharged customer to 6 months unless a reasonable person should have known of the inaccurate billing which resulted in the undercharge; utilities must implement procedures designed to identify customers who have been inaccurately billed; defines the term "written notice" to include e-mail when the customer has elected to receive electronic billing; clarifies restrictions when service may be denied or terminated and generally prohibits service termination on Fridays with some exceptions; clarifies that a utility is not required to provide service to an applicant who is not connected at the time of application; provides that a utility is not required to connect service for a customer or applicant who owes money on an existing account or a previous account if the unpaid bill is for service provided within the last 4 years.

31-7102-0701, Railroad Accident Reporting Rules. Repeal of chapter.

31-7103-0701, Railroad Safety/Sanitation Rules. Updates incorporation by reference of the October 1, 2007 edition of the federal hazardous material safety regulations - revisions include: requiring "NON-ODORIZED" marking on certain packages including tank cars containing un-odorized liquid petroleum gas (Part 172); revising the transport requirements for infectious substances and regulated medical waste (Parts 172, 173); and new Internet options for registration and assessment of hazardous materials (Part 107). Consolidates the accident reporting rule into this Chapter to streamline the railroad rules.

IDAPA 33 - IDAHO REAL ESTATE COMMISSION

PO Box 83720, Boise, ID 83720-0077

****33-0101-0703, Rules of the Idaho Real Estate Commission.** Requires that a notice advising a licensee of his non-compliance with the errors and omissions insurance requirement be sent as first class mail not "certified" mail.

IDAPA 35 - STATE TAX COMMISSION

P.O. Box 36, Boise, ID 83722-0410

35-0101-0701, Income Tax Administrative Rules. Rule 006: Identifies the MTC Web site for MTC regulations incorporated by reference; indicates the federal forms nonresident alien must file with Idaho return; provides a safe harbor exception to being a resident in Idaho but does not apply to military individuals; adds 2007 income tax brackets and rates table; complies with HB 239 amending Idaho college savings account reporting requirements; Clarifies calculations related to state tax addback and proration of exemptions and deductions of part-year residents and nonresidents that require rounding; addresses issues related to bonus depreciation; changes qualifying entity to qualified investment partnership and identifies the qualifying criteria for nonresidents' income tax liability; new section addresses S corporations; changes rules related to water's edge combined report; clarifies the options for computing ITC on movable property; complies with HB 177 to address tax credit for capital investment in biofuel infrastructure; addresses capital losses and Idaho credits for calculating net operating loss when claiming a refund; changes threshold of employment that triggers recapture for the Idaho small employer new jobs tax credit; deletes obsolete rules.

35.01.02 - Sales Tax Administrative Rules.

35-0102-0603, Amends dates for the schedules to reflect the 6% tax rate.

35-0102-0701, Defines “tax rate” as the current rate in effect and “fleet” to be one or more vehicles registered under the International Registration Plan; states that pumps supplying water to land and buildings will generally be considered fixtures; deletes references to a specific tax rate; states that in most cases store fixtures are to be considered personal property and that cable that must be removed from abandoned buildings is personal property; clarifies that the primary purpose of and primary use of the items purchased by organizations claiming the exemption must be the provision of free dental care to children; incorporates by reference the definition of “trailer” in the Motor Vehicle Code; clarifies effective date of increase in permit fee for amusement devices; clarifies refund claims must state the amount of the refund; includes component parts of snow making and snow grooming equipment as part of exemption for sales; specifies that retailers located in a qualifying shopping center must file a separate return for that location only, restricts release to public sales information from these retailers and requires developer to provide names and tax identification numbers of these retailers.

35.01.03 - Property Tax Administrative Rules

35-0103-0701, Implements HB79 by providing a definition and removing new construction within revenue allocation areas from the budget growth formula until the revenue allocation area is dissolved; implements HB1 and HB197 providing directions for calculation of the maximum property tax funds for tort funds for school districts.

35-0103-0702, Updates references to guides used to determine the values of recreational and certain other vehicles; provides follow-up procedures when categories in compliance in March final ratio study are discovered to be out of compliance following completion of county board of equalization action; adopts new criteria to differentiate real and personal property and to provide that net profits of mines are no longer considered personal property; provides for a procedure for calculating the contributory value of income tax credits for Section 42 housing; restricts Commission's responsibility to provide school district adjusted values to apply to the Boise School District only; clarifies what property at thermal energy electricity generation facilities is new construction; correct pipelines mileage reporting directions; provides cross references and directions relating to apportionment of property at thermal energy electricity generation facilities; changes date for county treasurers to submit property tax rate information used to calculate the tax rates applicable to railcar fleets under \$500,000; provides directions for assigning categories for homesites and when property has multiple uses, for assigning improvement categories with multiple uses, and for calculating the value of the portion of property not permitted the religious property exemption; clarifies homeowner's exemption for partial ownership and calculating benefits for partial ownership; provides procedures for county officials and claimants to that claimants are lawfully present in US and require claimant to present information enabling the state tax commission proving his lawful presence in US; restricts budget increase penalty for school districts so that it applies only to their tort funds; provides timeline for state tax commission review and approval, and procedures for correction of taxable values resulting from errors by county commissioners; outlines responsibilities of county auditors in computing total tax charge by taxing district and of county treasurers to compute individual property tax due on each parcel of property; makes corrections and deletes obsolete rules.

35.01.05 - Idaho Motor Fuels Tax Administrative Rules

35-0105-0701, Notifies gaseous fuels distributors that bad debt credit cannot be claimed on or after 12/1/07; requires gaseous fuels distributor to pay fuels taxes and permit fees to Commission; removes a deduction for gallons delivered to Indian-owned retail outlets and adds a deduction for fuel that is subject of an authorized agreement; shows how the 2% allowance is and will be distributed on and after 12/1/07; requires licensed fuels distributor to pay aircraft engine taxes to Commission; removes “cost of collections” in regard to the 2% discount granted to licensed fuel distributors when they pay motor fuels taxes, and to add biodiesel to the list of products subject to the transfer fee.

35-0105-0702, Provides that special fuels tax is included in price of undyed diesel fuel purchased by a consumer and removes references to high-sulfur diesel fuel and add ultra-low sulfur diesel fuel; addresses recent changes concerning refund claims; gives notice to fuel distributors of reinstatement of transfer fee and provide legal requirement and date for reinstatement.

35-0109-0701, Idaho Kitchen and Table Wine Tax Administrative Rules. Changes “wholesaler” to “distributor” and “unfit for beverage purposes” to “unfit for sale.”

35-0110-0701, Idaho Cigarette and Tobacco Tax Administrative Rules. Defines “person”; changes the word “indicia” to “stamps”; clarifies that only cigarettes can be claimed for a credit in Rule 022.

35-0111-0701, Idaho Unclaimed Property Administrative Rules. “Tax” and “return” in the income tax administrative statutes mean “unclaimed property” and “report of unclaimed property.”

35-0201-0701, Tax Commission Administration and Enforcement Rules. Removes obsolete references; establishes a formula for calculating yearly interest rate applied to deficiencies of tax and refunds; add the interest rate for calendar year 2008.

**IDAPA 37 - DEPARTMENT OF WATER RESOURCES
PO Box 83720, Boise, ID 83720-0098**

37-0301-0701, Adjudication Rules. Complies with statutory changes and updates outdated citations to Idaho Code; reduces number of claim forms from 2 to 1.

**IDAPA 38 - DEPARTMENT OF ADMINISTRATION
PO Box 83720, Boise, ID 83720-0003**

38-0101-0701, Other Contested Case or Adversary Hearings Before the Department of Administration. (Temp & Prop) Repeal of chapter.

38-0102-0701, Rules for Hearing Procedure for Division of Purchasing Specification Challenges and Rules for Non-Adversary Hearings. (Temp & Prop) Repeal of chapter.

38-0103-0701, Rules Governing Practice and Procedure for Public Hearings Before the Department of Administration. (Temp & Prop) Repeal of chapter.

38-0501-0701, Rules of the Division of Purchasing. (Temp & Prop) References rules applicable to certain appeals; increases small purchase exemption limit and professional services exemption limit, under which agencies can purchase without formal bid process, from \$50,000 to \$75,000; clarifies professional services exemption is for non-renewable contracts; and deletes electronic signature rules.

38-0502-0701, Rules Governing Contested Case Hearings on Bid Appeals at the Division of Purchasing. (Temp & Prop) Provides for procedures applying to bid appeals where there is a contested case hearing.

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise ID 83707-1129**

39-0260-0701, Rules Governing License Plate Provisions. Implements the digital license plate program and increases the character capacity from 5 to 6 for specialty plate; extends temporary registration to 45 days for the manufacture and deliver of new plate; allows licensed vehicle dealers to use loaner plates on vehicles in their inventory while they are on loan for civic or charitable events for up to 30 days.

39-0275-0701, Rules Governing Names on Drivers' Licenses and Identification Cards. Provides more flexibility in naming standards on driver's licenses and identification cards.

39-0308-0701, Rules Governing Prequalification of Variable Load Suspension Axles and Other Auxiliary Axles. (Temp & Prop) Repeal of chapter.

39-0310-0701, Rules Governing When an Overlegal Permit Is Required. (Temp & Prop) Combines the permitting of emergency moves and secondary moves for wreckers removing disabled vehicles; establishes a safer and more reasonable method of setting allowable weight limits on permitted vehicles by using the Department's Route Capacity Map, subject to posted weight restrictions.

39-0312-0701, Rules Governing Safety Requirements of Overlegal Permits. (Temp & Prop) Clarifies where the "oversize load" signs should be placed on towing vehicles and pilot/escort vehicles for maximum visibility by other travelers.

39-0316-0701, Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads. (Temp & Prop) Clarifies that "combinations" hauling overwidth loads are double trailer combinations within the specified legal length limit.

39-0317-0701, Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers. (Temp & Prop) Allows less restrictive options for connection devices between a manufactured home and the towing

vehicle.

IDAPA 41 - PUBLIC HEALTH DISTRICTS

707 N. Armstrong Pl., Boise, ID 83704-0825

41-0401-0701, Public Health District 4 - Costs and Charges. Repeal of chapter.

IDAPA 54 - OFFICE OF THE STATE TREASURER

PO Box 83720, Boise, ID 83720-0091

54-0201-0701, Rules Governing the College Savings Program. Retains in rule only those items required by Title 33, Chapter 54, Idaho Code.

THE FOLLOWING TEMPORARY RULE HAS BEEN ADOPTED:

Department of Commerce

28-0304-0701, Rules of the Business and Jobs Development Grant Fund

NEGOTIATED RULEMAKING MEETINGS ARE BEING HELD ON THE FOLLOWING:

Department of Environmental Quality

58-0101-0703, Rules for the Control of Air Pollution in Idaho

Please refer to the Idaho Administrative Bulletin, **October 3, 2007, Volume 07-10** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at www.adm.idaho.gov/adminrules/ or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.